

### REMARKS

Claims 1-10 and 12-19 are pending in the application. Claims 1 and 16 have been amended, Claim 19 has been canceled, and Claims 20-21 have been added, leaving Claims 1-10, 12-18 and 20-21 for consideration upon entry of the present Amendment.

Support for the amendment to Claims 1 and 16 can at least be found in the specification at paragraph [54].

Support for new Claims 20 and 21 can at least be found in the specification at paragraph [95].

No new matter has been entered. Applicant respectfully requests reconsideration in view of the claim amendments and remarks.

#### Rejection of Claims 1, 2, 7-10, 12 and 16-19 under 35 U.S.C. § 103(a)

Claims 1, 2, 7-10, 12, and 16-19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Colbert (U.S. 2004/0154264, hereinafter “Colbert”) in view of Lightner, Jr. et al, (U.S. 2005/0126430, hereinafter “Lightner”).

This rejection is moot in light of the clarifying amendments made to independent Claims 1 and 16.

Independent Claims 1 is directed to a gypsum panel comprising, *inter alia*, the following claimed elements: “...the high energy radiation cured coating comprises at least one polymer which has ethylenically unsaturated double bonds, the polymer is present in an amount between about 20 and 99 weight percent based on a total weight of the radiation curable formulation.”

Independent Claims 16 is directed to a gypsum panel comprising, *inter alia*, the following claimed elements: “...the radiation curable formulation comprises at least one polymer which has ethylenically unsaturated double bonds, wherein the polymer is present in an amount between about 20 and 99 weight percent based on a total weight of the radiation curable formulation.”

In making the rejection, the Examiner correctly noted that Colbert fails to teach or suggest that the coating is a radiation curable coating formulation. The Examiner relied upon Lightner to cure this deficiency, stating: “[i]t would have been obvious to one having ordinary

skill in the art to have used Lightner's method of radiation curing on the coating of Colbert, motivated by the desire to create a coating that is quickly dried, cured, and activated".

However, in paragraph [0026], Lightner teaches that the biocide surface treatment embodiments containing a latex or other film forming material may be dried by various types of curing methods. Absent in this reference is any teaching or suggestion that a radiation curable formulation is being used. In other words, the reference does not teach or suggest a formulation that is cured, i.e., a curable formulation.

Additionally, even if combined, Colbert and Lightner fail to teach or suggest at least one additional claimed element. More particularly, absent in these references is any teaching or suggestion of that the (high energy (Claim 1)) radiation cured coating comprises at least one polymer which has ethylenically unsaturated double bonds and the polymer is present in an amount between about 20 and 99 weight percent based on a total weight of the (high energy (Claim 1)) radiation curable formulation.

For at least these reasons, Colbert, either alone or in combination with Lightner, fails to teach or suggest at least one claimed element. Since these references fail to teach or suggest each and every element of independent Claim 1, independent Claim 1 is not obvious and is therefore allowable. Moreover, as dependent claims that depend from and further limit independent Claim 1, Claims 2-10 and 12-15 are, by definition, also allowable.

#### Rejection of Claims 3-6, and 13 under 35 U.S.C. § 103(a)

Claims 3-6 and 13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Colbert and Lightner, as applied to Claim 1, and further in view of Randall et al., (U.S. 2003/0203191, hereinafter "Randall").

Randall does not remedy any of the deficiencies of the primary or secondary references as described above and does not provide a separate basis for their combination. As a result, these claims are patentable for the very same reasons advanced above with respect to the rejection of Claim 1 and others.

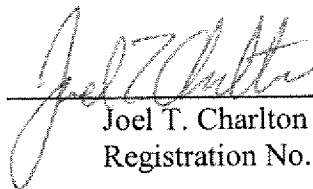
In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with the undersigned would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicant's attorney hereby authorizes that such fee be charged to Deposit Account No 50-3313.

Respectfully submitted,

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